

SECTION 7

DISCLOSURE AND USE OF PROJECT INFORMATION

7.1. General

The Participants recognize that successful collaboration depends on full and prompt exchange of information necessary for carrying out this Project. The nature and amount of Project Information to be acquired will be consistent with the objectives stated in Section 2 (Objectives and Scope of Work).

7.2. Project Foreground Information

7.2.1. Disclosure: Project Foreground Information generated or delivered by a Participant's contractors or military or civilian employees will be disclosed without charge to the other Participants.

7.2.2. Use: Each Participant may use or have used Project Foreground Information without charge for its Defense Purposes. The Participant generating Project Foreground Information will also retain its rights of use thereto. However, any sale, transfer of title, disclosure or transfer possession of Project Foreground Information or jointly acquired Project Equipment to a Third Party, will be subject to the provisions of Section 11 (Third Party Sales and Transfers) of this MOU. The Participants will acquire the legal rights to use contractor-provided Project Foreground Information in a sale to a Third Party.

7.3. Project Background Information

7.3.1. Disclosure: Each Participant, upon request, will disclose to the other Participant any Project Background Information generated by its contractors or military or civilian employees outside the scope of this MOU, provided that:

7.3.1.1. such Project Background Information is necessary to or useful in the Project, with the Participant in possession of the information determining whether it is "necessary to" or "useful in" the Project;

7.3.1.2. such Project Background Information may be made available without incurring liability to holders of proprietary rights; and

7.3.1.3. disclosure is consistent with national disclosure policies and regulations of the furnishing Participant.

7.3.2. Use: Project Background Information disclosed by one Participant to the other Participants may be used without charge by the other Participants for Project purposes only, and may be subject to further restrictions by holders of proprietary rights; however, the furnishing Participant will retain all its rights with respect to such Project Background Information.

7.4 Alternative Uses of Project Information

7.4.1. The prior written consent of each Participant will be required for the use or disclosure of Project Foreground information for purposes other than those provided for in this MOU.

7.4.2. Any Project Background Information provided by one Participant will be used or disclosed by the other Participants only for the Project purposes, unless otherwise consented to in writing by the providing Participant.

7.5 Proprietary Project Information

7.5.1. All Project Information subject to proprietary interests will be identified and marked by the originator, and it will be handled as Controlled Unclassified Information.

7.5.2. The provisions of the NATO Agreement on the Communication of Technical Information for Defence Purposes, done at Brussels on 19 October 1970, and the Implementing Procedures for the NATO Agreement on the Communication of Technical Information for Defence Purposes, approved by the North Atlantic Council on 1 January 1971, will apply to proprietary Project Information related to this MOU.

SECTION 8

CONTROLLED UNCLASSIFIED INFORMATION

8.1. Except as otherwise provided in this MOU or as authorized in writing by the originating Participant, Controlled Unclassified Information provided or generated pursuant to this MOU will be controlled as follows:

8.1.1. Such information will be used only for the purposes authorized for use of Project Information as specified in Section 7 (Disclosure and Use of Project Information).

8.1.2. Access to such information will be limited to personnel whose access is necessary for the permitted use under subparagraph 8.1.1, and will be subject to the provisions of Section 11 (Third Party Sales and Transfers).

8.1.3. Each Participant will take all lawful steps, which may include national classification, available to it to keep such information free from further disclosure (including requests under any legislative provisions), unless the originating Participant consents to such disclosure. In the event of unauthorized disclosure, or if it becomes probable that the information may have to be further disclosed under any legislative provision, immediate notification will be given to the originating Participant.

8.2. To assist in providing the appropriate controls, the originating Participant will ensure that Controlled Unclassified Information is appropriately marked. The Participants will decide, in advance and in writing, on the markings to be placed on the Controlled Unclassified Information. The appropriate markings will be defined in the Project Security Instruction.

8.3. Controlled Unclassified Information provided or generated pursuant to this MOU will be handled in a manner that ensures control as provided for in paragraph 8.1.

8.4. Prior to authorizing the release of Controlled Unclassified Information to Contractors, the Participants will ensure the Contractors are legally bound to control such information in accordance with the provisions of this Section.

SECTION 9 VISITS TO ESTABLISHMENTS

9.1. Each Participant will permit visits to its government establishments, agencies and laboratories, and Contractor industrial facilities by employees of the other Participants or by employees of the other Participant's Contractor(s), provided that the visit is authorized by the Participants and the employees have the necessary and appropriate security clearances and a need-to-know.

9.2. All visiting personnel will be required to comply with security regulations of the host Participant. Any information disclosed or made available to visitors will be treated as if supplied to the Participant sponsoring the visiting personnel, and will be subject to the provisions of this MOU.

9.3. Requests for visits by personnel of one Participant to a facility of the other Participant will be coordinated through official channels, and will conform with the established visit procedures of the host country. Requests for visits will bear the name of the Project.

9.4. Lists of personnel of each Participant required to visit, on a continuing basis, facilities of the other Participant will be submitted through official channels in accordance with recurring international visit procedures.

SECTION 10 SECURITY

10.1. All Classified Information and material provided or generated pursuant to this MOU will be stored, handled, transmitted, and safeguarded by the Participants in accordance with their national security laws and regulations, provided such protection by the Participants is in a manner no less stringent than that provided for NATO Classified Information and material as set forth in the document "Security Within the North Atlantic Treaty Organization," CM(55)15(Final), of 1 October 1990, including all subsequent amendments.

10.2. Classified Information and material will be transferred only through official government-to-government channels or through channels approved by the Designated Security Authorities (DSAs) of the Participants. Such Classified Information and material will bear the level of classification, denote the country of origin, the conditions of release, and the fact that the information relates to this MOU.

10.3. Each Participant will ensure in a manner consistent with its laws and regulations that Classified Information provided or generated pursuant to this MOU is protected from further disclosure, except as permitted by paragraph 10.8, unless the other Participants consents to such disclosure. Accordingly, each Participant will ensure that:

10.3.1. The recipient will not release the Classified Information to any government, national, organization, or other entity of a Third Party without the prior written consent of the originating Participant in accordance with the procedures set forth in Section 11 (Third Party Sales and Transfers).

10.3.2. The recipient will not use the Classified Information for other than the purposes provided for in this MOU.

10.3.3. The recipient will comply with any distribution and access restrictions on information that is provided under this MOU.

10.4. Each Participant will investigate all cases in which it is known or where there are grounds for suspecting that Classified Information or material provided or generated pursuant to this MOU has been lost or disclosed to unauthorized persons. Participants also will promptly and fully inform the other Participant of the details of any such occurrences, and of the final results of the investigation and of the corrective action taken to preclude recurrences.

10.5. The PM will prepare a Project Security Instruction and a Classification Guide for the Project. The Project Security Instruction and the Classification Guide will describe the methods by which Project Information and material will be classified, marked, used, transmitted, and

safeguarded. The Instruction and Guide will be developed by the PM within three months after this MOU enters into force. They will be reviewed and forwarded to the Participants' DSA's through the MB for approval and will be applicable to all government and contractor personnel participating in the Project. The Classification Guide will be subject to regular review and revision of the classification criteria with the aim of downgrading the classification whenever this is appropriate. The Project Security Instruction and the Classification Guide will be approved by the appropriate DSA prior to the transfer of any Classified Information or Controlled Unclassified Information.

10.6. The DSA of the Participant in which a classified contract is awarded will assume responsibility for administering within its territory security measures for the protection of the Classified Information, in accordance with its laws and regulations. Prior to the release to a contractor, prospective contractor, or subcontractor of any Classified Information received under this MOU, the DSAs will:

10.6.1. Ensure that such contractor, prospective contractor or subcontractor and their facility(ies) have the capability to protect the Classified Information adequately.

10.6.2. Grant a security clearance to the facility(ies), if appropriate.

10.6.3. Grant a security clearance for all personnel whose duties require access to Classified Information, if appropriate.

10.6.4. Ensure that all persons having access to the Classified Information are informed of their responsibilities to protect the Classified Information in accordance with national security laws and regulations, and provisions of this MOU.

10.6.5. Carry out periodic security inspections of cleared facilities to ensure that the Classified Information is properly protected.

10.6.6. Ensure that access to the Classified Information is limited to those persons who have a need-to-know for purposes of the MOU.

10.7. Contractors, prospective contractors, or subcontractors which are determined by DSAs to be under financial, administrative, policy or management control of nationals or entities of a Third Party, may participate in a contract or subcontract requiring access to Classified Information provided or generated pursuant to this MOU only when enforceable measures are in effect to ensure that nationals or other entities of a Third Party will not have access to Classified Information. If enforceable measures are not in effect to preclude access by nationals or other entities of a Third Party, the other Participant will be consulted for approval prior to permitting such access.

10.8. For any facility wherein Classified Information or material is to be used, the responsible Participant or contractor will approve the appointment of a person or persons to exercise effectively the responsibilities for safeguarding at such facility the information or material pertaining to this MOU. These officials will be responsible for limiting access to Classified Information or material involved in this MOU to those persons who have been properly approved for access and have a need-to-know.

10.9. Each Participant will ensure that access to the Classified Information is limited to those persons who possess requisite security clearances and have a specific need for access to the Classified Information in order to participate in the Project.

10.10. Information or material provided or generated pursuant to this MOU may be classified as high as SECRET. The existence of this MOU is UNCLASSIFIED and the contents are UNCLASSIFIED.

SECTION 11

THIRD PARTY SALES AND TRANSFERS

11.1. A Participant(s) will not sell, transfer title to, disclose, or transfer possession of Project Foreground Information or Project Equipment that is jointly acquired to any Third Party without the prior written consent of the other Participants. Furthermore, no Participant will permit any such sale, disclosure, or transfer, including by the owner of the item, without the prior written consent of the other Participants. Such consent will not be given unless the government(s) of the intended recipient(s) consents in writing with the Participants that it will:

11.1.1. not retransfer, or permit the further retransfer of, any equipment or information provided; and

11.1.2. use, or permit the use of, the equipment or information provided only for the purposes specified by the Participants.

11.2. A Participant will not sell, transfer title to, disclose, or transfer possession of Project Equipment or Project Background Information provided by another Participant to any Third Party without the prior written consent of the Participant(s) which provided such equipment or information. The providing Participant will be solely responsible for authorizing such transfers and, as applicable, specifying the method and conditions for implementing such transfers.

SECTION 12

LIABILITY AND CLAIMS

12.1. Subject to applicable multilateral and bilateral treaties and agreements between the Participants, for liability arising out of, or in connection with, activities undertaken in the performance of the Project under this MOU, the following provisions will apply:

12.1.1 With the exception of claims for loss or damage to Project Equipment under Section 6 (Project Equipment), each Participant waives all claims against the other Participants in respect to injury or death of its military or civilian personnel or for damage to or loss of its property caused by personnel of another Participant. If, however, such injury, death, damage, or loss results from reckless acts, reckless omissions, willful misconduct, or gross negligence of a Participant, its personnel or agents, liability will not be waived and that Participant will be responsible for payment of any claims.

12.1.2 Claims (other than contractual claims) not covered by paragraph 12.1.1., including third-party claims will be processed, resolved and settled by the Participants concerned.

SECTION 13

STATUS OF PERSONNEL

The status of personnel shall be determined by applicable multilateral treaty or agreement, i.e. the Agreement Between the Parties to the North Atlantic Treaty Regarding the Status of Forces of 19 June 1951; the Protocol on the Status of International Military Headquarters Set Up Pursuant to the North Atlantic Treaty (Paris Protocol) of 28 August 1952; the Agreement on the Status of the North Atlantic Treaty Organization, National Representatives and International Staff (Ottawa Agreement) of 20 September 1951; or the Vienna Convention on Diplomatic Relations of 18 April 1961.

SECTION 14

PARTICIPATION OF ADDITIONAL NATO NATIONS

14.1. It is recognized that other NATO nations may wish to join the Project.

14.2. Mutual consent of the Participants will be required to conduct discussions with potential additional Participants. The Participants will discuss the arrangements under which another

Participant might join, including the furnishing of releasable Project Information for evaluation prior to joining. If the disclosure of Project Information is necessary to conduct discussions, such disclosure will be in accordance with Section 7 (Disclosure and Use of Project Information), Section 8 (Controlled Unclassified Information) and Section 11 (Third Party Sales and Transfers).

14.3. The Participants will jointly formulate the provisions under which additional Participants will join the Project. These provisions will include that the new Participant will comply with all previous documents and decisions approved by the MB. The addition of new Participants to the Project will require amendment of this MOU by the Participants.

SECTION 15

CUSTOMS DUTIES, TAXES, AND SIMILAR CHARGES

15.1. Customs duties, import and export taxes, and similar charges will be administered in accordance with each Participant's respective laws and regulations. Insofar as existing national laws and regulations permit, the Participants will endeavor to ensure that such readily identifiable duties, taxes and similar charges, as well as quantitative or other restrictions on imports and exports, are not imposed in connection with work carried out under this Project.

15.2. Each Participant will use its best efforts to ensure that customs duties, import and export taxes, and similar charges are administered in a manner favorable to the efficient and economical conduct of the work.

SECTION 16

SETTLEMENT OF DISPUTES

16.1. Disputes between the Participants arising under or relating to this MOU will be resolved only by consultation between the Participants and will not be referred to a national court, an international tribunal, or to any other person or entity for settlement.

SECTION 17 GENERAL PROVISIONS

- 17.1. All activities of a Participant under this MOU will be carried out in accordance with its national law.
- 17.2. No requirement will be imposed by either Participant for work sharing or other industrial or commercial compensation in connection with this MOU that is not in accordance with this MOU.
- 17.3. For purposes of this MOU, the territories of the Faroe Islands and Greenland are not included as part of the Danish Participant.

SECTION 18 AMENDMENT, WITHDRAWAL, TERMINATION, ENTRY INTO EFFECT, AND DURATION

- 18.1. Except as otherwise provided, this MOU may be amended by the mutual written consent of the Participants.
- 18.2. This MOU may be terminated at any time upon the written consent of the Participants. In the event all Participants consent to terminate this MOU, the Participants will consult prior to the date of termination to ensure termination on the most economical and equitable terms.
- 18.3. Any Participant may withdraw from this MOU upon 90 days written notification of its intent to withdraw to the other Participant. Such notice will be the subject of immediate consultation by the MB to decide upon the appropriate course of action to conclude the activities under this MOU. In the event of such withdrawal, the following rules apply:
- 18.3.1. The withdrawing Participant will continue participation, financial or otherwise, up to the effective date of withdrawal.
- 18.3.2. Except as to contracts awarded on behalf of the Participants, each Participant will be responsible for its own Project-related costs associated with withdrawal from the Project. For contracts awarded on behalf of other Participants, the withdrawing Participant will pay all contract modification or termination costs that would not otherwise have been incurred but for the decision to withdraw.

18.3.3. All Project Information and rights therein received under the provisions of this MOU prior to the withdrawal will be retained by the withdrawing Participants, subject to the provisions of this MOU.

18.3.4. If requested by the remaining Participants, the withdrawing Participant may continue to administer the Project Contract(s) which it awarded on behalf of the remaining Participants on a reimbursable basis.

18.4. The respective rights and obligations of the Participants regarding Section 6 (Project Equipment), Section 7 (Disclosure and Use of Project Information), Section 8 (Controlled Unclassified Information), Section 9 (Security), Section 11 (Third Party Sales and Transfers), Section 12 (Liability and Claims), Section 13 (Status of Personnel) and Section 18 (Amendment, Withdrawal, Termination, Entry into Effect, and Duration) will continue to apply notwithstanding termination, withdraw or expiration of this MOU.

18.5. This MOU, which consists of 18 Sections, will enter into effect upon signature by all Participants and will remain in effect for 3 years. It may be extended by written consent of the Participants.

IN WITNESS WHEREOF, the undersigned, being duly authorized, have signed this MOU.

For the Minister of Defence of the
Kingdom of Belgium


Signature

MajGen F. CORNELIS


Name

Belgian National Armaments Director

Title

Date: 10 October 2000

For the Department of National
Defence of Canada


Signature

Name

Title

Date: 5 September 2000

For the Minister of Defence of the Kingdom
of Denmark

N. Mejdal
Signature

Name **N. MEJDAL**
Rear-Admiral
Deputy Chief of Staff
Title **Chief, Infrastructure & Logistics**

Date: 2 October 2000

For the Department of Defense of
the United States of America

J. S. Gansler
Signature
J. S. Gansler

Name
Under Secretary of Defense
(Acquisition, Technology and Logistics)
Title

Date: 5 October 2000

For the Ministry of Defence of the
Kingdom of Norway

Leif Lindbæk
Signature

Name **Leif Lindbæk**

Director General
Title

Date: 11 October 2000